

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

ROBIN R. NEWTON,

Plaintiff,

vs.

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

Case No.: 3:13-cv-360

Magistrate Judge Michael J. Newman  
(Consent Case)

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**ORDER CONSTRUING THE PARTIES' JOINT STIPULATION FOR  
\$4,250.00 IN EAJA FEES (DOC. 16) AS A JOINT, UNOPPOSED  
MOTION FOR \$4,250.00 IN EAJA FEES AND GRANTING SAME**

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This case is before the Court pursuant to a joint stipulation by Plaintiff and the Commissioner for an award of \$4,250.00 in attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). This stipulation (doc. 16) is construed as a joint, unopposed motion for \$4,250.00 in EAJA fees.

**I.**

EAJA provides for an award of attorney's fees to a party who prevails in a civil action against the United States "when the position taken by the Government is not substantially justified and no special circumstances exist warranting a denial of fees." *Bryant v. Comm'r of Soc. Sec.*, 578 F.3d 443, 445 (6th Cir. 2009) (citing 28 U.S.C. § 2412(d)(1)(A)). A party who wins a Sentence Four remand is a prevailing party for EAJA purposes. *See Shalala v. Schaefer*, 509 U.S. 292, 301-02 (1993). EAJA fees are payable to the litigant. *Astrue v. Ratliff*, 586 U.S. 586, 589 (2010).

**II.**

On July 8, 2014, the undersigned granted the parties' joint motion to remand this matter under Sentence Four for further proceedings. Doc. 15. Accordingly, Plaintiff is the prevailing party

in this case for EAJA purposes, and is therefore entitled to an award of attorney's fees under EAJA. *See Shalala*, 509 U.S. at 301-02.

Plaintiff's counsel advises the Court that he worked 26.0 hours on this matter. Doc. 18-1 at PageID 739. At the stipulated amount of \$4,250.00, this calculates as \$163.46 per hour -- an hourly rate not challenged by the Commissioner. Having reviewed the time sheet entries submitted by Plaintiff's counsel, *see* doc. 18-1 at PageID 736-39, and considering the nature of the work counsel performed in this matter, the Court finds the requested fee reasonable. *Compare Kash v. Comm'r of Soc. Sec.*, No. 3:11-CV-44, 2012 WL 3112373, at \*2-3 (S.D. Ohio July 31, 2012) (Newman, M.J.), *adopted by* 2012 WL 3636936, at \*1 (S.D. Ohio Aug. 21, 2012) (Rice, J.) (finding an hourly rate of \$176.36 reasonable in an EAJA fee application). Accordingly, Plaintiff is entitled to an EAJA fees award in the amount of \$4,250.00.

### III.

Based upon the foregoing analysis, **THE COURT ORDERS THAT:**

1. The parties' joint stipulation for an EAJA fee award (doc. 16) -- construed as a joint, unopposed motion for an award of EAJA fees -- is **GRANTED**;
2. Plaintiff is **AWARDED** the sum of \$4,250.00 in EAJA fees; and
3. As no further matters remain pending for review, this case remains **TERMINATED** upon the Court's docket.

August 15, 2014

s/ **Michael J. Newman**  
United States Magistrate Judge